

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAMUHAMMAD KHAN,
Plaintiff,

v.

HALEY MADSEN, et al.,
Defendants.

Case No. 23-cv-06141 BLF (PR)

**ORDER DENYING MOTION FOR
RECUSAL**

(Docket No. 25)

Plaintiff, a state prisoner, filed a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983. Dkt. No. 5. The “final amended complaint” filed on January 22, 2024, along with the exhibits filed on February 14, 2024, is the operative complaint in this matter. Dkt. Nos. 11, 12.

On March 4, 2024, Plaintiff filed a “submission to disqualify” the undersigned pursuant to “USDC LCR 3-14 and 28 USC 144,” Dkt. No. 13, which the Court construed as a motion for recusal and denied it as without merit. Dkt. No. 14. Because Plaintiff failed to show that he was indigent at the time of filing, the Court denied leave to proceed *in forma pauperis*, and directed Plaintiff to pay the full filing fee to proceed with this action. Dkt. No. 15. After being granted two extensions of time, Plaintiff paid the filing fee on May 3, 2024. Dkt. No. 24.

1 On May 28, 2024, Plaintiff filed another motion to recuse the undersigned, which
2 the Court construes as a motion for reconsideration of its prior order denying Plaintiff's
3 first motion for recusal. Dkt. No. 25. Plaintiff repeats his assertion that the undersigned
4 "will be biased, prone to decide for Defendants, and show overall prejudice for
5 Defendants." *Id.* He asserts that should the undersigned remain on the case, he will
6 "continue to face prejudice and rulings that are unfavorable." *Id.* He also requests
7 disclosure of "any campaign contributions or fundraisers" that the undersigned has
8 received from the "Office of Attorney General, SAP America or any subsidiary/partner
9 thereof including former and current employees, and current/former employees/partners of
10 any law firm that represents, represented, or representing the entities named above. *Id.*

11 In the Northern District of California, Local Rule 7-9 allows for the filing of
12 motions for reconsideration only with respect to interlocutory orders made in a case prior
13 to the entry of final judgment. *See* Civil L.R. 7-9(a). No pre-judgment motion for
14 reconsideration under Local Rule 7-9 may be brought without leave of court. *See* Civil
15 L.R. 7-9(a). The moving party must specifically show: (1) that at the time of the motion
16 for leave, a material difference in fact or law exists from that which was presented to the
17 court before entry of the interlocutory order for which the reconsideration is sought, and
18 that in the exercise of reasonable diligence the party applying for reconsideration did not
19 know such fact or law at the time of the interlocutory order; or (2) the emergence of new
20 material facts or a change of law occurring after the time of such order; or (3) a manifest
21 failure by the court to consider material facts which were presented to the court before
22 such interlocutory order. *See* Civil L.R. 7-9(b).

23 The Court finds the request fails to establish any of the factors under Rule 7-9(b):
24 (1) Plaintiff does not allege any material difference in law or fact that existed from that
25 which was presented to the Court before entry of the order denying his motion for recusal;
26 (2) there has been no emergence of new material facts or change of law that occurred after
27 the time of such order; and (3) there was no manifest failure by the Court to consider

1 material facts which were presented to the Court before the order was issued.

2 Furthermore, Plaintiff's request for disclosure of campaign contributions indicates
3 that he is merely fishing for information without any actual basis for recusal. As before,
4 Plaintiff's concern that the Court "*will* act with prejudice" is purely speculative.
5 Accordingly, the motion for reconsideration is **DENIED**.

6 The Court will conduct an initial screening of Plaintiff's amended complaint in due
7 course.

8 This order terminates Docket No. 25.

9 **IT IS SO ORDERED.**

10 **Dated:** May 30, 2024


BETH LABSON FREEMAN
United States District Judge

United States District Court
Northern District of California